

BOX FILING DATE  
EXPEDITED HANDLING REQUESTED

PATENT  
Attorney Docket No. 1718-195P

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: QUIBELL, Martin et al.

SERIAL NO.: NEW GROUP: Unassigned

FILED: November 16, 2001 EXAMINER: Unassigned

FOR: CYSTEINE PROTEASE INHIBITORS



*Receipt date grant  
is 11/16/01.  
g. change from  
oPLA*

PETITION FOR THE ACCORDANCE OF A FILING DATE  
PURSUANT TO 37 C.F.R. 1.6

U.S. Patent and Trademark Office  
P.O. Box 2327  
Arlington, VA 22202

November 30, 2001

Sir:

This is a Petition to be accorded a filing date of November 16, 2001 for a new patent application which was properly deposited with the United States Postal Service (USPS) by Express Mail on November 16, 2001, but which was not delivered because of the emergency temporary change in the USPTO Express Mail address.

Applicant's representative deposited a patent application and related correspondence in an Express Mail envelope at the USPS Express Mail "Drop Box" located at 3101 W. Sunflower, Santa Ana, California 92799 on Friday, November 16, 2001 at approximately 6:30 p.m. (Pacific Time). The "Express Mail" mailing label number was EL501842244US and the package was properly addressed to the Assistant Commissioner for Patents, Washington, DC 20231. A USPS employee stationed at the "Drop Box" accepted the correspondence. Applicant's representative, therefore, fully expected to receive a filing date of

November 16, 2001, in accordance with the "date-in" on the "Express Mail" mailing label pursuant to 37 C.F.R. §1.10(a).

On November 19, 2001, Applicant's representative received a notice from the USPS indicating that the above-identified Express Mail package was not delivered to the addressee because express mail service was temporarily suspended at the Washington, DC post office. Applicant subsequently received the actual package from the USPS on November 20, 2001. Upon inspection of the package, Applicant's representative noticed that the USPS had failed to properly fill in the Origin portion of the mailing label and had, instead, only filled in the Delivery Attempt sections. The USPS had apparently attempted to deliver the package to the Washington, DC post office on November 17<sup>th</sup> and November 19<sup>th</sup>. The time of the delivery attempts were also noted on the mailing label. The notations on the label clearly indicate that the package was deposited in an "Express Mail" drop box. However, the mailing label failed to indicate the correct "date-in".

Applicant's representative obtained a printout of the USPS' Product Tracking System to demonstrate that the package was deposited on November 16, 2001. As can be seen from the enclosed Product Tracking System Record, the package was "returned to sender" on November 16, 2001. The evidence therefore indicates that the package was in the control of the USPS as of November 16, 2001. Applicant's representative therefore requests that the above-identified application be accorded a filing date of November 16, 2001.

The undersigned hereby declares that all statements made herein are based upon knowledge are true, and that all statements based upon information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

If there are any outstanding matters regarding this Petition, please contact the undersigned at (714) 708-8555 in the Southern California area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By: Kalpana Reddy  
Kalpana Reddy  
Registration No. 46,138

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LRS/KR

Attachments

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope to: Commissioner of Patents and Trademarks, Washington

D.C. 20231 on: November 30, 2001  
(Date of deposit)

BIRCH, STEWART, KOLASCH & BIRCH, LLP

Lori M. Tilkova  
(Signature)  
November 30, 2001  
(Date of Signature)

Z723\*

PRODUCT TRACKING SYSTEM PAGE 001 OF 003

11/28/2001 10:25:23

LABEL E

WP0121

LBL: EL501842244US

DT MAILED:

TM MAILED:

DESTINATION: ZIP: CITY: STATE:  
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CLASS: SERVICE: SIGNATURE IND:  
SCHD DELV DATE/TIME: POSTAGE: OTHER FEE:  
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WEIGHT LB: OZ: EMC/FED: CDA#:  
DELV RQMT: PO BOX? CUSTOMS IN: OUT:  
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EVENT: NOTICE LEFT ZIP: 92626 DATE: 11/19/2001 TIME: 12:50  
CITY: COSTA MESA STATE: CA

EVENT: NOTICE LEFT ZIP: 92626 DATE: 11/17/2001 TIME: 07:39  
CITY: COSTA MESA STATE: CA

EVENT: NOTICE LEFT ZIP: 92626 DATE: 11/17/2001 TIME: 07:39  
CITY: COSTA MESA STATE: CA

EVENT: ARRIVAL AT UNIT ZIP: 92626 DATE: 11/17/2001 TIME: 06:38  
CITY: COSTA MESA STATE: CA

PF3=NEW LBL-ID PF7=PREV PAGE PF8=NEXT PAGE PF10=EXIT  
CBE723-010: LABEL-ID FOUND. FIRST PAGE

Z723 PRODUCT TRACKING SYSTEM PAGE 002 OF 002  
11/28/2001 10:25:27 LABEL E TAILS WP0121

LBL: EL501842244US DT MAILED: TM MAILED:

DESTINATION: ZIP: CITY: STATE:  
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WEIGHT LB: OZ: EMC/FED: CDA#:  
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EVENT: RETURN TO SENDER ZIP: 92799 DATE: 11/16/2001 TIME: 18:00  
CITY: SANTA ANA STATE: CA

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CBE723-015: LAST PAGE